

Message Text

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PAGE 01 STATE 225264
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DRAFTED BY EUR/CE:WMWOESSNER:EM
APPROVED BY EUR:JEGOODBY

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FM SECSTATE WASHDC
TO AMEMBASSY BONN IMMEDIATE
INFO AMEMBASSY PARIS
AMEMBASSY LONDON
USMISSION USBERLIN

C O N F I D E N T I A L STATE 225264

E.O. 11652: GDS

TAGS: PINS, WB, GW, GE, FR

SUBJECT: FRENCH DEMARCHE ON LOT HIJACKING

1. FRENCH CHARGE BOYER TELEPHONED EUR/CE DIRECTOR WOESSNER
SEPTEMBER 4 ON INSTRUCTIONS OF HIS GOVERNMENT TO PRESENT
FRENCH ARGUMENTS IN FAVOR OF US PROSECUTION OF THE LOT
HIJACKER. BOYER PREFACED HIS PRESENTATION BY OBSERVING
THAT ALL THESE ARGUMENTS WERE PRESUMABLY ALREADY KNOWN TO US
FROM BONN GROUP DELIBERATIONS.

A - THE HIJACKING OF A PLANE TO TEMPELHOF INVOLVED QUESTIONS
OF AIR SAFETY AND SECURITY IN AND AROUND BERLIN, MATTERS
WHICH PROPERLY FELL UNDER ALLIED RIGHTS AND RESPONSIBILITIES.

B - IN A SIMILAR INCIDENT IN 1969 THE FRENCH HAD TRIED THE
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HIJACKER. ALTHOUGH IT WAS TRUE THAT THE HAGUE CONVENTION
ON HIJACKING HAD SUBSEQUENTLY BEEN EXTENDED TO BERLIN, IN
AUTHORIZING THE EXTENSION THE ALLIES HAD EXPRESSLY RESERVED
THEIR RIGHTS AND RESPONSIBILITIES. THEREFORE, THERE WAS
NO DIFFERENCE BETWEEN THE TWO CASES SO FAR AS ALLIED
RESPONSIBILITY WAS CONCERNED.

C - TO GIVE SOME MEANING TO THE RECENTLY ISSUED BONN DECLARATION ON HIJACKING, IT WAS IMPORTANT THAT THE US, AS ONE OF THE KEY SIGNATORIES, TAKE ACTION.

D. IT WAS LIKELY THAT BECAUSE OF DOMESTIC POLITICAL PRESSURES, A BERLIN COURT WOULD GIVE THE HIJACKER NO PENALTY OR ONLY A TOKEN PUNISHMENT. THIS COULD PROVOKE A SERIOUS REACTION FROM THE SOVIETS.

2. IN RESPONSE WOESSNER CONFIRMED THAT THE FRENCH ARGUMENTS WERE KNOWN TO THE DEPARTMENT, AND HAD INDEED BEEN CAREFULLY WEIGHED.

BRIEFED BOYER ON THE LENGTH AND BREADTH OF THE DELIBERATIONS WITHIN THE DEPARTMENT, GAVE HIM SOME OF THEIR FLAVOR, AND NOTED THAT THE MATTER HAD BEEN CONSIDERED BY THE ACTING SECRETARY. TURNING TO THE POINTS MADE BY BOYER, HE SAID THAT:

A - ALTHOUGH AIR SAFETY AND THE SECURITY OF THE BERLIN AIR REGIME CLEARLY FELL WITHIN ALLIED RIGHTS AND RESPONSIBILITIES, THE EXTENSION OF THE HAGUE CONVENTION ON HIJACKING TO BERLIN CLEARLY MADE A DIFFERENCE BETWEEN THE 1969 SITUATION AND THE CURRENT ONE. AT THE TIME OF THE EXTENSION THE SOVIETS HAD STRONGLY ARGUED THAT IT WAS AN INFRINGEMENT OF ALLIED RIGHTS AND RESPONSIBILITIES.
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WE HAD ARGUED THAT IT WAS PERFECTLY COMPATIBLE WITH ALLIED RIGHTS AND RESPONSIBILITIES. IF WE HAD NOT INTENDED IT TO APPLY TO A HIJACKING CASE SUCH AS THIS ONE, WHAT MEANING COULD THE EXTENSION OF A CONVENTION ON HIJACKING HAVE? TO BACK DOWN NOW IN THE FACT OF THE FIRST REAL TEST SINCE EXTENSION WOULD IMPLY THAT THE SOVIETS HAD BEEN RIGHT IN THE FIRST PLACE.

B - WE WERE AS KEEN AS ANYONE TO GIVE FORCE TO THE BONN DECLARATION, BUT THAT WAS NOT AT ISSUE. AFTER ALL, THE GERMANS TOO WERE ONE OF THE SIGNATORIES, AND INDEED THE INSTIGATOR OF THE BONN DECLARATION, AND HAD AS MUCH OF A STAKE IN SEEING IT IMPLEMENTED AS WE DID.

C - GIVEN THE INDIGNATION AROUSED BY THE RECENT DISSIDENT TRIALS IN EASTERN EUROPE, AND THE SYMPATHY THAT WOULD BE PRESENT FOR A PERSON WHO HAD MANAGED TO ESCAPE FROM A TOTALITARIAN REGIME AND HAD NOT USED FORCE IN DOING SO, THERE WAS POSSIBILITY THAT A US JUDGE WOULD BE AS LENIENT AS A BERLIN JUDGE.

D - WOESSNER OBSERVED THAT WE HAD FULL SYMPATHY FOR THE

AWKWARD POLITICAL SITUATION IN WHICH SUCH A TRIAL WOULD PLACE THE FRG, BUT THAT UNDER THE CIRCUMSTANCES, HAVING SUPPORTED THE EXTENSION OF THE HAGUE CONVENTION TO BERLIN AT FRG REQUEST, WE NOW FELT THAT BERLIN AUTHORITIES SHOULD CARRY THROUGH AND EXERCISE THE AUTHORITY THEY HAD BEEN GRANTED.

3. NOTE: BOYER'S INSTRUCTIONS HAD CALLED FOR HIM TO MAKE THE DEMARCHE AT THE ASSISTANT SECRETARY LEVEL. HE SUBSEQUENTLY REPEATED IT TO ACTING ASSISTANT SECRETARY GOODBY WITH SIMILAR RESULTS. CHRISTOPHER

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APPROVED BY: EUR/EE:HGILMORE

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INFO AMEMBASSY WARSAW 8625

C O N F I D E N T I A L STATE 225264

FOL TEL SENT ACTION BONN INFO PARIS LONDON USBERLIN
FROM SECSTATE DTD 06 SEPT 1978 QTE

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